

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
Civil Case No. 1:15-cv-274

Kay Diane Ansley, Catherine “Cathy”
McGaughey, Carol Ann Person, Thomas
Roger Person, Kelley Penn, and Sonja
Goodman,
Plaintiffs,
v.
State of North Carolina,
Defendant.

Civil Case No. 1:15-cv-274

**DEFENDANT’S MOTION TO
DISMISS PLAINTIFFS’
COMPLAINT**

[Fed. R. Civ. P. 12(b)(1), (2) and (6)]

Now comes Defendant, the State of North Carolina, by and through the North Carolina Attorney General and the undersigned attorneys, and respectfully moves the Court to dismiss Plaintiffs’ Complaint against the State in the above-captioned matter pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(2) and 12(b)(6). Plaintiffs’ Complaint is barred by the State’s sovereign immunity pursuant to the Eleventh Amendment to the United States Constitution, the Complaint fails to state a claim upon which relief can be granted, and this Court lacks subject matter jurisdiction to adjudicate this cause of action due to Plaintiffs’ lack of standing.

In support of this motion, the State relies on the factual grounds, arguments and legal authorities set forth in the accompanying brief.

Respectfully submitted, this the 5th day of February, 2016.

ROY COOPER
North Carolina Attorney General

/s/ Olga E. Vysotskaya de Brito
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CERTIFICATE OF SERVICE

I hereby certify that on this day, February 5, 2016, I electronically filed the foregoing **MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Olga E. Vysotskaya de Brito
Ms. Olga E. Vysotskaya de Brito
Special Deputy Attorney General